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Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 72

MANAGEMENT ACCOUNTANTS ACT

HON. DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 72

1985

MANAGEMENT ACCOUNTANTS ACT

(Assented to _____, 1985)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “annual certificate” means a certificate issued pursuant to section 21;
- (b) “authorized entity” means a registered member, a professional corporation, a student member and a person who is a member of any other class or category of membership established under the by-laws;
- (c) “certificate of membership” means a certificate of registered membership and a certificate of student membership;
- (d) “certificate of registered membership” means a certificate of registered membership issued pursuant to section 13(1);
- (e) “certificate of student membership” means a certificate of student membership issued pursuant to section 13(3);
- (f) “Council” means the Council of the Society established under section 7;
- (g) “Investigation Committee” means the Investigation Committee established under section 32;
- (h) “member of the public” means an individual who is not an authorized entity or a member of any other accounting profession or organization;
- (i) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (j) “permit” means a permit issued pursuant to section 13;
- (k) “Practice Review Board” means the Practice Review Board established under section 26;
- (l) “Professional Conduct Committee” means the Professional Conduct Committee established under section 31;
- (m) “professional corporation” means a corporation that holds a subsisting permit;
- (n) “register” means a register referred to in section 9(1);
- (o) “registered member” means an individual who holds a subsisting certificate of registered membership and an annual certificate;

- (p) "Registrar" means the Registrar appointed under section 7;
- (q) "Registration Committee" means the Registration Committee established under section 10;
- (r) "review" means, in Part 1, an independent review of financial statements provided on a fee for service basis, primarily by means of inquiry, comparison and discussion of information supplied by an entity, with the objective of determining whether the financial statements
 - (i) appear to be plausible in the circumstances, and
 - (ii) appear to be in accordance with an appropriate and disclosed basis of accounting consistently applied,
 resulting in a communication of responsibility that is intended to be relied upon or might reasonably be expected to be relied upon by third parties, and includes a statement that an audit, as defined in the *Chartered Accountants Act*, of the financial statements has not been conducted;
- (s) "Society" means The Society of Management Accountants of Alberta;
- (t) "student member" means an individual who holds a subsisting certificate of student membership.

PART 1
SCOPE OF PRACTICE AND USE OF NAME

Exclusive scope
of practice and
use of name

- 2(1) Except as is provided in this Act, the regulations or any other enactment, no person except a registered member or a professional corporation shall perform a review.
- (2) Subsection (1) does not apply
 - (a) to a person employed or engaged by a registered member or professional corporation who performs a review under the supervision or control of a registered member, or
 - (b) to a person who performs a review for his employer, where the employer is not a registered member or a professional corporation.
- (3) Except when provided otherwise in the regulations, no person except a registered member shall
 - (a) use the name "Registered Industrial Accountant" or "Certified Management Accountant" or any other name or any abbreviation of those words alone or in any combination with any other word, or
 - (b) use the initials "R.I.A." or "C.M.A." or any other initials, either alone or in combination with any other word, letter, symbol, initial or abbreviation,

to represent expressly or by implication that he is a registered member, or use any title, name, description, abbreviation, letter or symbol

representing the name “Registered Industrial Accountant” or “Certified Management Accountant” or the initials “R.I.A.” or “C.M.A.”.

(4) Subject to and in accordance with the regulations, registered members and other authorized entities may use

(a) the name “Registered Industrial Accountant” and the initials “R.I.A.”, or

(b) the name “Certified Management Accountant” and the initials “C.M.A.”.

Use of title by
Professional
Corporation

3(1) No registered member shall engage in the practice of accounting in Alberta under any name or title containing the words “Professional Corporation” or the initials “P.C.” unless that person is duly incorporated and the holder of a permit.

(2) A person practising accounting in contravention of subsection (1) is guilty of an offence and liable to a fine not exceeding \$100 for every day on which that name or title is used.

Persons under
suspension of
cancellation

4 Unless otherwise permitted under this Act, no registered member, student member or professional corporation shall engage in the practice of accounting directly or indirectly with a person whose registration or permit is under suspension or has been cancelled under this Act or the regulations.

Injunction

5 The Court of Queen’s Bench, on application by the Society by way of originating notice, may grant an injunction enjoining any person from doing any act that is in contravention of this Part, notwithstanding any penalty that is provided by this Act or the regulations in respect of that contravention.

PART 2 SOCIETY

Society

6(1) The Society of Management Accountants of Alberta incorporated under *The Society of Management Accountants of Alberta Act* is continued under this Act as a corporation with the same name.

(2) The Society has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

Council

7(1) There is hereby established a governing body of the Society called the Council.

(2) The Council shall manage and conduct the business and affairs of the Society and exercise the rights, powers and privileges of the Society in the name and on behalf of the Society.

(3) The Council shall annually submit to the Minister a report on those matters of the business and affairs of the Society that the Minister may require in a form satisfactory to him.

(4) The Council shall appoint an individual as Registrar for the purposes of this Act.

(5) The Minister shall, on receipt of the annual report of the Society, lay it before the Legislative Assembly, if it is then sitting, and if it is

not then sitting, within 15 days after the commencement of the next ensuing sitting.

8(1) The Council shall consist of

(a) not fewer than 6 registered members or a greater number that may be prescribed by the by-laws, not to exceed 24, each of whom shall be elected by and from among registered members at the time, in the manner and for the period provided for by the by-laws,

(b) when the number of elected registered members does not exceed 10, 1 member of the public, or when the number of elected registered members is more than 10, 2 members of the public, who shall be appointed by the Minister for a 2-year term of office from a list of no fewer than 3 members of the public nominated by the Council, and

(c) any other members of the public who are elected or appointed by registered members at the time, in the manner and for the period provided for by the by-laws.

(2) If the Council fails, within a reasonable time after being requested to do so by the Minister, to make a nomination for the purpose of subsection (1)(b), the Minister may appoint the members of the public to the Council without the Council's nomination.

(3) The members of the Council shall elect from among themselves the officers of the Society specified in the by-laws in the manner and for the term prescribed in the by-laws.

(4) A member of the Council referred to in subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(5) The Minister may, after consultation with the Council, revoke the appointment of a member of the Council referred to in subsection (1)(b).

(6) The Minister may, in the absence of any payment by the Society to the member for that purpose, pay to a member of the Council referred to in subsection (1)(b) travelling and living expenses incurred by that member for his attendance at any meeting of the Council while away from his usual place of residence, and fees in an amount prescribed by the Minister.

(7) The powers, duties and operations of the Council under this Act, the regulations and the by-laws are not affected by

(a) the fact that no member of the public is appointed as a member of the Council pursuant to subsection (1)(b),

(b) the revocation under subsection (5) of the appointment of a member of the Council, or

(c) the resignation from the Council of a member of the public.

(8) The failure of a member of the public appointed pursuant to subsection (1)(b) to attend a meeting of the Council shall not be construed to affect or restrict the Council from exercising any powers

or performing any duties under this Act, the regulations or the by-laws at that meeting.

PART 3
REGISTRATION OF MEMBERS

Registers

9(1) The Registrar shall maintain, in accordance with the by-laws and subject to the direction of the Council, the following registers:

- (a) a register of registered members;
- (b) a register of professional corporations;
- (c) a register of student members;
- (d) a register of each other class or category of membership established under the by-laws.

(2) The Registrar shall enter in the appropriate register the name of a person

- (a) whose application has been approved
 - (i) by the Registration Committee or, on review, the Council, in the case of a registered member,
 - (ii) by the Registrar, in the case of a professional corporation, or
 - (iii) in accordance with the by-laws, in the case of a student member or a member of another class or category of membership established under the by-laws,

and

- (b) who has paid the fee prescribed in the by-laws.

(3) The Registrar shall maintain, in accordance with the by-laws and separate from the registers to be maintained under subsection (1), a list of authorized entities in good standing with the Society, which the Registrar shall, during regular office hours, permit any person to inspect.

Registration Committee

10(1) There is hereby established a Registration Committee consisting of the registered members appointed in accordance with the regulations.

(2) The Registration Committee shall, in accordance with this Part, the regulations and the by-laws, consider applications for the registration of applicants as registered members, and may approve or refuse to approve the registration or defer the approval of registration until it is satisfied that the applicant has fulfilled all of the applicable requirements for registration.

(3) On approving or refusing or deferring approval of registration, the Registration Committee shall

- (a) cause a written notice of the approval, refusal or deferral to be sent to the applicant, and

(b) in the case of an approval, cause a notice of the approval to be published to registered members in the manner prescribed in the by-laws.

(4) A registered member may, within 15 days of publication of a notice of approval under subsection (3), request the Council to review the application and approval by serving on the Registrar a written request for review by the Council setting out the reasons why, in his opinion, the application and approval of the applicant concerned should be reviewed.

(5) A request for review under subsection (4) acts as a stay of the approval of registration by the Registration Committee.

(6) An applicant whose application for registration in accordance with this Part has been refused may, within 30 days of receiving a notice of refusal and the reasons for the refusal, request the Council to review the refusal by serving on the Registrar a written request for review by the Council setting out the reasons why, in his opinion, his application for registration as a registered member should be approved.

Reviews

11(1) The Council shall, after receipt of a request for review under section 10(4) or (6), review the request so received.

(2) The Council shall, on receipt of a request for review under section 10(4) or (6), direct the Registrar to notify in writing

(a) in the case of a request for review pursuant to section 10(4), the person who requested the review and the applicant for registration, and

(b) in the case of a request for review pursuant to section 10(6), the applicant,

of the date, place and time that it will consider the matter requested to be reviewed.

(3) Each person entitled to notification under subsection (2) is entitled to appear with counsel and make representations to the Council when it considers the matter under review.

(4) The Council shall review the matter requested to be reviewed within 30 days after the date of service of the notification under subsection (2).

(5) The Council may, on the written request of the applicant or the Registrar, extend the period mentioned in subsection (4) for 1 or more additional periods, each not exceeding 30 days.

(6) A member of the Registration Committee who is also a member of the Council may participate at a review by the Council under this section but shall not vote in a decision of the Council at a review under this section.

(7) On reviewing an application under this section, the Council may make any decision that the Registration Committee could have made.

Registration of corporations

12(1) The Registrar may approve the registration of and the issuance of a permit to any corporation that

(a) files an application in the form prescribed by the Council,

- (b) pays all the fees prescribed by the by-laws,
- (c) satisfies the Registrar that it is a corporation in good standing with the Registrar as defined in the *Business Corporations Act*,
- (d) satisfies the Registrar that the corporation, by law or by virtue of its incorporating documents, has the capacity to carry on the business and exercise the powers set out in the by-laws under this Act,
- (e) satisfies the Registrar that the name of the corporation is in accordance with the regulations and contains the words “Professional Corporation”,
- (f) satisfies the Registrar that the legal and beneficial ownership of all the issued shares of the corporation is vested in 1 or more registered members and that all of the directors of the corporation are registered members, and
- (g) satisfies the Registrar that the persons who will carry on the practice of accounting on behalf of the corporation are registered members.

(2) A corporation becomes entitled to be registered as a professional corporation when the Registrar approves its registration.

Issue of certificates and permits

13(1) On entering the name of an individual in the register of registered members, the Registrar shall issue to that individual a certificate of registered membership.

(2) On entering the name of a corporation in the register of professional corporations, the Registrar shall issue to that corporation a permit to engage in the practice of accounting as a professional corporation.

(3) On entering the name of an individual in the register of student members the Registrar shall issue to that individual a certificate of student membership, which is renewable annually in accordance with the by-laws.

(4) A certificate of registered membership, a permit and a certificate of student membership issued under this section are subject to this Act, the regulations and the by-laws.

Terms of permits

14(1) The term of a permit is 1 year from the date of issue of the permit and the permit may be renewed by the Registrar for additional periods, not exceeding 1 year, on payment of the fees prescribed in the by-laws.

(2) A permit may be cancelled or its renewal withheld by the Registrar where any of the conditions specified in section 12(1) ceases to be fulfilled.

Termination of permits

15(1) Where a professional corporation ceases to fulfil any condition specified in section 12(1) by reason only of the death of a registered member who is a shareholder of the corporation, the professional corporation has a period of 90 days from the date of death in which to fulfil the condition, failing which the Registrar may cancel the permit of the professional corporation.

	<p>(2) Where a professional corporation ceases to fulfil any condition specified in section 12(1) for any reason other than the death of a registered member who is a shareholder of the corporation, the Registrar may forthwith cancel the permit of the professional corporation.</p>
Liability of shareholders	<p>16(1) Notwithstanding any provision to the contrary in the <i>Business Corporations Act</i>, every person who is a shareholder of a corporation during the time that it is the holder of a permit or who is a shareholder of a corporation during the time that it acts in contravention of this Act is liable to the same extent and in the same manner as if the shareholders of the corporation were, during that time, carrying on the business of the corporation as a partnership or, where there is only 1 shareholder, as an individual practising accounting.</p> <p>(2) The liability of any person in carrying on the practice of accounting is not affected by the fact that the practice is carried on by that person as an employee and on behalf of a professional corporation.</p>
Voting agreements	<p>17 No shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a registered member the authority to exercise the voting rights attached to any or all of his shares.</p>
Accountant-client relationship	<p>18(1) Nothing contained in this Act affects, modifies or limits any law applicable to the confidential or ethical nature of the relationship between a registered member and a person receiving the professional services of a registered member.</p> <p>(2) The relationship between a professional corporation carrying on the practice of accounting and a person receiving the professional services of the corporation is subject to all applicable laws relating to the confidential and ethical nature of the relationship between a registered member and his client.</p> <p>(3) All rights and obligations pertaining to communications made to or information received by a registered member apply to the shareholders, directors, officers and employees of a professional corporation.</p>
Application of Act	<p>19(1) The relationship between a professional corporation in the practice of accounting and a person receiving the professional services of the corporation is subject to this Act, the regulations and any other law applicable to the relationship between a registered member and his client.</p> <p>(2) The relationship of a registered member to a professional corporation, whether as shareholder, director, officer or employee of that corporation, does not affect, modify or diminish the application of this Act, the regulations and the by-laws</p> <p>(a) to him personally as a registered member, or</p> <p>(b) to the relationship between the registered member and his client.</p> <p>(3) The provisions of this Act, the regulations and the by-laws that are applicable to registered members apply with all necessary modi-</p>

	<p>fications to a professional corporation unless otherwise expressly provided.</p>
Professional corporations	<p>20(1) A professional corporation may engage in the practice of accounting only in its corporate name or another name that is approved by the Council pursuant to the regulations, and not otherwise.</p> <p>(2) A professional corporation shall advise the Registrar in writing of the names of the shareholders, directors and officers of the corporation and of any change in shareholders, directors or officers forthwith after the change occurs.</p> <p>(3) If a professional corporation causes financial statements to be prepared it shall cause them to be signed by the registered member who had personal supervision, direction and control over their preparation.</p>
Annual certificates	<p>21(1) The Registrar shall issue an annual certificate in accordance with the by-laws to a registered member who pays the annual fee prescribed by the by-laws and whose registration is not under suspension or cancelled.</p> <p>(2) An annual certificate is valid during the period for which it is issued.</p>
Suspension and cancellation	<p>22(1) The registration of an authorized entity is suspended when a decision to suspend the registration is made in accordance with this Act.</p> <p>(2) The Registrar shall, after a decision to suspend a registration has been made, enter a memorandum of the suspension of the registration in the appropriate register, indicating</p> <p style="padding-left: 40px;">(a) the period of the suspension, and</p> <p style="padding-left: 40px;">(b) the reason for the suspension.</p> <p>(3) The registration of an authorized entity is cancelled when a decision to cancel the registration is made in accordance with this Act.</p> <p>(4) The Registrar shall, after a decision to cancel a registration has been made, enter a memorandum of the cancellation of the registration in the appropriate register.</p> <p>(5) The Registrar shall not remove from the registers any memorandum made by him under subsection (2) or (4) except in accordance with the by-laws.</p>
Requests for cancellation	<p>23 The Registrar may, at the request of an authorized entity, cancel the registration of the authorized entity.</p>
Non-payment of fees etc.	<p>24(1) The Registrar may cancel the registration of</p> <p style="padding-left: 40px;">(a) an authorized entity that is in default of payment of any fees, costs, dues or levies payable by it under this Act, the regulations or the by-laws, or</p> <p style="padding-left: 40px;">(b) a registered member who has ceased to be ordinarily resident in Alberta,</p> <p>after the expiration of 1 month following the service on that authorized entity or registered member of a written notice that the Registrar</p>

intends to cancel the registration unless the authorized entity or registered member on whom the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless, as the case may be,

(a) the fees, dues, costs or levies are paid as indicated in the notice, or

(b) evidence satisfactory to the Registrar has been received by him within the time prescribed in the notice that the registered member continues to be ordinarily resident in Alberta.

(3) The Registrar may cancel the registration of any authorized entity that was entered in error in a register.

Reinstatement **25** The Council may direct the Registrar, subject to any conditions respecting the payment of arrears and any reinstatement fee that the Council may prescribe,

(a) to reinstate in the applicable register a registration that was cancelled under section 24(1), and

(b) to re-issue the certificate of membership, annual certificate or permit, as the case may be, to its former holder.

PART 4

PRACTICE REVIEW BOARD

Membership **26** There is hereby established a Practice Review Board consisting of not fewer than 4 registered members appointed by the Council in the number and manner set out in the by-laws.

Duties **27(1)** The Practice Review Board

(a) shall on its own initiative or at the request of the Council inquire into and report to and advise the Council in respect of

(i) the assessment and development of educational standards and experience requirements that are conditions precedent to obtaining and continuing registration as a registered member under this Act,

(ii) the evaluation of desirable standards of competence of registered members generally,

(iii) any other matter that the Council from time to time considers necessary or appropriate in connection with the exercise of its powers and the performance of its duties in relation to competence in the practice of accounting under this Act, the regulations and the by-laws, and

(iv) the practice of accounting generally,

and

(b) may conduct a review of the practice of an authorized entity in accordance with this Act and the by-laws.

(2) If an authorized entity does not co-operate with the Practice Review Board in carrying out an inquiry or review, the chairman of the Practice Review Board may make a complaint in writing to the Registrar and the failure or refusal to co-operate may be held by the Professional Conduct Committee to be professional misconduct.

Inquiries and reviews

28 Sections 42 to 46 apply, with all necessary modifications, to an inquiry or review by the Practice Review Board as if that Board were the Professional Conduct Committee.

Powers re: reviews

29(1) After each inquiry or review under section 27, the Practice Review Board

(a) shall make a written report to the Council on the inquiry or review and, where appropriate, on its decision,

(b) may make recommendations to the Council regarding the matter inquired into or reviewed, with reasons for the recommendations,

(c) may make recommendations to an authorized entity as to his or its practice,

(d) may assess and levy the costs of any inquiry or review against the authorized entity in respect of whom the review was conducted in accordance with the by-laws, and

(e) if it is of the opinion that the conduct of an authorized entity constitutes or may constitute either unskilled practice of accounting or professional misconduct,

(i) shall forthwith refer the matter relating to that conduct to the Registrar for an investigation under Part 5, and in such a case the Registrar shall deal with the referral as if it were a complaint, and

(ii) may, if it makes a referral under subclause (i), recommend to the chairman of the Council that the registration of the authorized entity be temporarily suspended pending the outcome of proceedings under Part 5.

(2) On receiving a recommendation under subsection (1)(e)(ii), the chairman of the Council may suspend the registration.

(3) The authorized entity may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the chairman of the Practice Review Board, apply for an order of the Court staying the decision of the chairman.

(4) If the costs of a practice review are not paid at or within the time prescribed for payment, the authorized entity is, by virtue of the non-payment, suspended while the costs remain unpaid.

PART 5
DISCIPLINE

Definitions

30 In this Part,

- (a) “conduct” includes any act or omission;
- (b) “investigated person” means an authorized entity with respect to whose conduct an investigation or hearing is held under this Part;
- (c) “records” means
 - (i) accounts, books, returns, statements, reports, correspondence, financial documents, financial statements, working papers, or other memoranda of financial or non-financial information whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate.

Professional
Conduct
Committee

31(1) There is hereby established a committee called the Professional Conduct Committee composed of not fewer than 3 persons as follows:

- (a) at least 2 registered members appointed by the Council in accordance with the by-laws;
 - (b) 1 person who is appointed by the Minister from a list of no fewer than 3 members of the public nominated by the Council.
- (2) If the Council fails, within a reasonable time after being requested to do so by the Minister, to make a nomination for the purpose of subsection (1)(b), the Minister may appoint a member of the public to the Professional Conduct Committee without the Council’s nomination.
- (3) The Minister may, in the absence of any payment by the Society to the member for that purpose, pay to the member of the Professional Conduct Committee referred to in subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Professional Conduct Committee away from his usual place of residence and fees in an amount prescribed by the Minister.
- (4) The Minister may, after consultation with the Council, revoke the appointment of the member of the Professional Conduct Committee referred to in subsection (1)(b).
- (5) A member of the Professional Conduct Committee appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.
- (6) The powers, duties and operations of the Professional Conduct Committee under this Act, the regulations and the by-laws are not affected by
- (a) the fact that no member of the public is appointed as a member of the Professional Conduct Committee pursuant to subsection (1)(b),

(b) the revocation under subsection (4) of the appointment of a member of the public, or

(c) the resignation as a member of the Professional Conduct Committee of a member of the public.

(7) Subject to the by-laws prescribing a quorum of the Professional Conduct Committee, the failure of a member of the public appointed pursuant to subsection (1)(b) to attend a meeting of the Professional Conduct Committee shall not be construed to affect or restrict the Professional Conduct Committee from exercising any powers or performing any duties under this Act, the regulations and the by-laws at that meeting.

Investigation
Committee

32(1) There is hereby established a committee called the Investigation Committee composed of at least 2 registered members appointed by the Council in accordance with the by-laws.

(2) No person who is a member of the Professional Conduct Committee may be a member of the Investigation Committee.

Unskilled
practice and
professional
misconduct

33 Any conduct of an authorized entity that, in the opinion of the Professional Conduct Committee,

(a) is detrimental to the best interests of the public or the members of the Society,

(b) contravenes this Act or the regulations,

(c) harms or tends to harm the standing of the profession of accounting generally, or

(d) displays lack of knowledge of or lack of skill or judgment in the practice of accounting,

constitutes either unskilled practice of accounting or professional misconduct, whichever the Professional Conduct Committee determines, whether or not that conduct is disgraceful or dishonourable.

Complaints

34(1) A person may complain to the Registrar about the conduct of an authorized entity, and the complaint shall be dealt with in accordance with this Part and the regulations.

(2) If, after the registration of an authorized entity is removed, suspended or cancelled under this Act

(a) a complaint is made about the former authorized entity, and

(b) the complaint relates to conduct occurring before the removal, suspension or cancellation occurred,

the complaint may, notwithstanding the removal, suspension or cancellation, be dealt with within 2 years following the date of removal, suspension or cancellation as if the removal, suspension or cancellation had not occurred.

(3) A person designated by the Council as a mediator may assist in settling a complaint made to the Registrar if the complainant and the person about whose conduct the complaint was made so agree, but if within 30 days from the date of receipt of the complaint, or a longer period agreed to by those persons, a settlement of the com-

plaint between those persons does not occur, or in the mediator's opinion is not likely to occur, the mediator shall forthwith refer the complaint to the Registrar.

(4) If an authorized entity fails to comply with the terms of any settlement reached under subsection (3), the mediator may make a complaint in writing to the Registrar under subsection (1) and the failure may be held by the Professional Conduct Committee to be professional misconduct.

Preliminary investigation

35(1) The Registrar, on receipt of a complaint under section 34(1) or, if section 34(3) applies, on receipt of the referral from the mediator, shall forthwith forward the complaint to the chairman of the Investigation Committee.

(2) The chairman of the Investigation Committee shall, within 30 days from the date on which he receives a complaint under subsection (1), conduct or appoint a person to conduct a preliminary investigation into the conduct of the authorized entity.

(3) The chairman of the Council may at the request of the chairman of the Investigation Committee extend the 30-day period mentioned in subsection (2).

(4) A person conducting a preliminary investigation may

(a) request any person to answer any questions and to produce to him any records that are relevant to the investigation, and

(b) copy and keep copies of any of the records that are produced to him under clause (a).

(5) A person conducting a preliminary investigation shall conduct the investigation in a manner considered by him to be most suitable in all the circumstances.

(6) A person conducting a preliminary investigation may investigate any other matter related to the professional conduct or skill in practice of the investigated person that arises in the course of the investigation and may include that matter in the complaint being investigated.

(7) The person conducting a preliminary investigation shall, forthwith on concluding the preliminary investigation, report his findings to the Investigation Committee.

(8) If an investigated person or any other authorized entity does not co-operate with a person conducting a preliminary investigation, the person conducting the preliminary investigation may make a complaint in writing to the Registrar and the failure or refusal to co-operate may be held by the Professional Conduct Committee to be professional misconduct.

Duties of Investigation Committee

36(1) The Investigation Committee shall, forthwith on receipt of a report under section 35(7),

(a) direct that no further action be taken, if it determines that

(i) the complaint is frivolous or vexatious, or

(ii) there is insufficient evidence of unskilled practice of accounting or professional misconduct to warrant consideration of the conduct by the Professional Conduct Committee,

or

(b) refer the complaint to the Professional Conduct Committee if it determines that there is sufficient evidence of unskilled practice of accounting or professional misconduct to warrant consideration of the conduct by the Professional Conduct Committee.

(2) A member of the Investigation Committee may participate in and vote on any decision made under subsection (1), notwithstanding that he may have conducted the preliminary investigation of the complaint.

(3) The Investigation Committee is not required to hold a hearing for the purpose of making a decision under subsection (1).

Notice

37 The chairman of the Investigation Committee shall direct the Registrar to serve on the investigated person and on the complainant, if any, a notice that no further action will be taken or that the matter has been referred to the Professional Conduct Committee, as the case may be.

Appeal by complainant

38(1) A complainant who is served with a notice under section 37 that no further action will be taken may, by notice in writing given to and received by the Registrar within 30 days of receipt of the notice, appeal that decision to the Council.

(2) On an appeal under subsection (1), the Council shall determine whether

(a) the complaint is frivolous or vexatious, or

(b) there is sufficient evidence of unskilled practice of accounting or professional misconduct to warrant consideration of the conduct by the Professional Conduct Committee

and shall notify the complainant and the investigated person in writing of its decision.

(3) The Council is not required to hold a hearing for the purpose of making a decision under subsection (2).

Suspension pending decision

39(1) Notwithstanding anything in this Act, the chairman of the Professional Conduct Committee may at any time and without a hearing suspend the registration of an investigated person pending the decision of the Professional Conduct Committee with respect to the conduct of that investigated person and in such a case the chairman shall forthwith notify the investigated person in writing of the suspension.

(2) The investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the chairman, apply for an order of the Court staying the decision of the chairman.

Hearings

40(1) On referral to it of a matter under this Part, the Professional Conduct Committee shall hold a hearing.

(2) The Society and the investigated person may appear and be represented by counsel at a hearing before the Professional Conduct Committee.

(3) The Professional Conduct Committee and the Council may direct that proceedings before them be held in private.

Notice of hearing **41**(1) The chairman of the Professional Conduct Committee shall direct the Registrar to serve and the Registrar on being so directed shall, at least 15 days before the hearing date, serve on the investigated person a notice of hearing stating the date, time and place at which the Professional Conduct Committee will hold a hearing and giving reasonable particulars of the complaint or conduct in respect of which the hearing will be held.

(2) The Professional Conduct Committee shall hold a hearing on the complaint or conduct referred to in the notice within 30 days after the date of service of the notice of hearing under subsection (1).

(3) The chairman of the Council may, on the written request of the chairman of the Professional Conduct Committee, extend the period mentioned in subsection (2) for 1 or more additional periods, each not exceeding 30 days.

(4) The Professional Conduct Committee may also hear any other matter concerning the professional conduct or skill in practice of the investigated person that arises in the course of a hearing, but in that event the Professional Conduct Committee shall declare its intention to hear the further matter and shall permit the investigated person sufficient opportunity to prepare his answer to the further matter.

Evidence **42**(1) Evidence may be given before the Professional Conduct Committee in any manner that the Professional Conduct Committee considers appropriate, and the Professional Conduct Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purpose of an investigation, hearing or review under this Act, a member of the Investigation Committee, a person conducting a preliminary investigation, a member of the Professional Conduct Committee, a member of the Practice Review Board and a member of the Council are conferred with the power of a commissioner for oaths under the *Commissioners for Oaths Act*.

Witnesses **43**(1) The investigated person and any other person who, in the opinion of the Professional Conduct Committee, has knowledge of the complaint or any conduct being investigated are compellable witnesses in a hearing under this Part.

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing and shall not be excused from answering any question on the ground that the answer might

(a) tend to incriminate him,

(b) subject him to punishment under this Part, or

(c) tend to establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act or regulations under any Act,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings, in a prosecution under Part 8 or in any proceedings under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application ex parte by the Society may direct the issuing of a commission for the obtaining of the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Alberta Rules of Court.

Attendance and production of records

44(1) The attendance of witnesses before the Professional Conduct Committee and the production of records that are relevant to the investigation may be enforced by a notice issued by the Registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the records, if any, he is required to produce.

(2) On the written request of the investigated person or of his counsel or agent, the Registrar shall without charge issue and deliver to that person or his counsel or agent any notices that he may require under subsection (1).

(3) A witness, other than the investigated person, who has been served with a notice under subsection (1) or (2) is entitled to be paid the same fees as are payable to a witness in an action in the Court of Queen's Bench.

Failure to attend or give evidence

45(1) Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before the Professional Conduct Committee in compliance with a notice to attend,

(ii) to produce any records in compliance with a notice to produce them, or

(iii) in any way to comply with either notice,

or

(b) who refuses to be sworn or to answer any question directed to be answered by the Professional Conduct Committee.

(2) If the witness referred to in subsection (1) is the investigated person, his failure or refusal may be held to be professional misconduct as determined by the Professional Conduct Committee.

Absence of investigated person

46 The Professional Conduct Committee, on proof of service on the investigated person of the notice of hearing may

(a) proceed with the hearing in the absence of the investigated person, and

(b) act, decide or report on the matter being heard in the same way as though the investigated person were in attendance.

No finding of unskilled practice or professional misconduct

47 If the Professional Conduct Committee determines that the conduct of an investigated person constitutes neither unskilled practice of accounting nor professional misconduct, it shall so find.

Finding of unskilled practice or professional misconduct

48 If the Professional Conduct Committee determines that the conduct of an investigated person constitutes unskilled practice of accounting or professional misconduct or both, it shall so find and shall deal with that conduct in accordance with this Part.

Orders

49(1) If the Professional Conduct Committee finds that the conduct of an investigated person constitutes unskilled practice of accounting or professional misconduct or both, the Professional Conduct Committee may make any order it considers appropriate including, without limitation, one or more of the following orders:

- (a) reprimand the investigated person;
- (b) suspend the registration of an investigated person either generally or from any field of the practice of accounting;
- (c) suspend the registration of an investigated person either generally or from any field of the practice of accounting until
 - (i) he has completed a specific course of studies or obtained supervised practical experience, or
 - (ii) the Professional Conduct Committee is satisfied as to the competence of the investigated person generally or in a specified field of the practice of accounting;
- (d) accept in place of a suspension the investigated person's undertaking to limit his practice;
- (e) impose conditions on the investigated person's eligibility to engage in the practice of accounting generally or in any field of the practice, including the conditions that he
 - (i) practise under supervision,
 - (ii) not engage in sole practice,
 - (iii) permit periodic inspections by a person authorized by the Professional Conduct Committee, or
 - (iv) report to the Professional Conduct Committee on specific matters;
- (f) direct the investigated person to pass a particular course of study or satisfy the Professional Conduct Committee as to his practical competence generally or in a field of practice;
- (g) direct the investigated person to satisfy the Professional Conduct Committee that a disability or addiction can be or has been overcome, and suspend the person's registration until the Professional Conduct Committee is so satisfied;
- (h) require the investigated person to take counselling that in the opinion of the Professional Conduct Committee is appropriate and to report thereon to the Committee;

(i) direct the investigated person to waive, reduce or repay a fee for services rendered by the investigated person if, in the opinion of the Professional Conduct Committee,

(i) the services were not rendered or were improperly rendered, or

(ii) the fee for the services was unjustified for any reason;

(j) cancel the registration of the investigated person.

(2) The Professional Conduct Committee may make any ancillary order that is appropriate or required in connection with any order mentioned in subsection (1) or may make any other order that it considers appropriate in the circumstances including that

(a) a further or new investigation into any matter be held,

(b) the Professional Conduct Committee be convened to hear a complaint without a preliminary investigation,

(c) a matter be referred to the Practice Review Board, or

(d) a complaint or conduct be referred to any other entity having jurisdiction to review complaints.

(3) Where the Professional Conduct Committee is satisfied that an investigated person has contravened an order under subsection (1), an order of the Council under section 57(6) or an order of the Court of Appeal under section 61(1) it may, without the necessity of a further hearing, cancel or suspend his registration subject to any terms and conditions it considers appropriate.

50(1) The Professional Conduct Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 49, order that the investigated person pay

(a) all or part of the costs of the investigation and hearing to the Society in accordance with the by-laws,

(b) a fine not exceeding \$10 000 to the Society, or

(c) both the costs under clause (a) and the fine under clause (b)

within the time set by the order.

(2) If the person ordered to pay a fine, costs or both under subsection (1) fails to pay the fine, costs or both within the time ordered, the Professional Conduct Committee may suspend the registration of that person until he has paid the fine, costs or both.

(3) If the Professional Conduct Committee finds that a complaint is frivolous or vexatious, it may order the complainant to pay the costs of the preliminary investigation and the hearing before the Professional Conduct Committee determined in accordance with the regulations.

(4) A fine or costs ordered to be paid to the Society under this section is a debt due to the Society and may be recovered by the Society by civil action for debt.

Written decision	<p>51 The Professional Conduct Committee shall, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter, in which it shall</p> <ul style="list-style-type: none"> (a) describe each finding made by it in accordance with this Part, (b) state the reasons for each finding made by it, and (c) state any order made under this Part.
Service of decision	<p>52(1) When the Professional Conduct Committee has made a decision, the chairman of the Professional Conduct Committee shall immediately forward to the Registrar</p> <ul style="list-style-type: none"> (a) the decision, and (b) the record of the hearing, consisting of all evidence presented before it, including <ul style="list-style-type: none"> (i) all exhibits, (ii) all documents, and (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form. <p>(2) The Registrar shall, on receiving the decision of the Professional Conduct Committee and the record of the hearing referred to in subsection (1), serve</p> <ul style="list-style-type: none"> (a) a copy of the decision on <ul style="list-style-type: none"> (i) the investigated person, and (ii) the chairman of the Council, and (b) a notice of the nature of the decision on the complainant, if any. <p>(3) A person served under subsection (2)(a) with a copy of a decision of the Professional Conduct Committee is entitled to examine the record or any part of the record of the proceedings before the Professional Conduct Committee and to hear any tape recording or examine any mechanical or handwritten form of record of any testimony given before the Professional Conduct Committee.</p>
Effectiveness of decision	<p>53 The decision of the Professional Conduct Committee remains in effect pending an appeal to the Council unless the Council on application stays the decision pending the appeal.</p>
Rehearing	<p>54 If new evidence is available which was not available or for good reason was not presented at a hearing under this Part, the Professional Conduct Committee may, with the consent of the investigated person, rehear any matter already heard by it under this Part and, for that purpose, has all the same power and authority and is subject to the same duties as it had and was subject to in connection with the first hearing.</p>

Appeal to
Council

55(1) An investigated person or the Registrar may appeal to the Council

- (a) a finding made by the Professional Conduct Committee in accordance with section 47 or 48,
 - (b) any order of the Professional Conduct Committee under section 49 or 50, or
 - (c) both a finding referred to in clause (a) and an order referred to in clause (b).
- (2) An appeal under subsection (1) shall be commenced by a written notice of appeal, which shall
- (a) describe the finding or order appealed, and
 - (b) state the reasons for the appeal.
- (3) A notice of appeal under subsection (2) shall,
- (a) when it is filed by the investigated person, be filed with the Registrar within 30 days after the date of service of the decision of the Professional Conduct Committee on the investigated person, and
 - (b) when it is filed by the Registrar, be filed by him within 30 days after the date he receives the decision of the Professional Conduct Committee.
- (4) The Registrar shall, forthwith on receiving a notice of appeal under subsection (3) or on filing a notice of appeal himself, give to each member of the Council a copy of the notice of appeal.
- (5) The Registrar shall, forthwith on filing a notice of appeal himself, serve a copy of it on the investigated person.
- (6) Each member of the Council is entitled on receiving a copy of a notice of appeal to examine the record or any part of the record of the proceedings before the Professional Conduct Committee and to hear any tape recording or examine any mechanical or handwritten form of record of any testimony given before the Professional Conduct Committee.

Notice of hearing

56(1) The Registrar shall, on the direction of the Council, and not less than 15 days before the date set for the hearing, serve on the investigated person a notice of hearing of an appeal stating the date, time and place when the Council will hear the matters appealed.

- (2) The Council shall hear an appeal within 30 days after the date of service of the notice under subsection (1).
- (3) The Council may, on the written request of the investigated person or the Registrar, extend the period mentioned in subsection (2) for 1 or more additional periods, each not exceeding 30 days.

Conduct of
appeal

57(1) The Registrar and the investigated person may appear and be represented by counsel at the hearing of an appeal before the Council.

- (2) A member of the Professional Conduct Committee who is also a member of the Council may participate in an appeal before the Council but shall not vote in a decision of the Council on the appeal.

- (3) The appeal to the Council shall be founded on a copy of the record of the proceedings before the Professional Conduct Committee and the decision and order of the Professional Conduct Committee.
- (4) Sections 42 to 46, with all necessary modifications, apply to proceedings before the Council.
- (5) The Council on an appeal may do any or all of the following:
 - (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council;
 - (b) on granting special leave for that purpose, receive further evidence;
 - (c) draw inferences of fact and make a determination or finding that, in its opinion, ought to have been made by the Professional Conduct Committee.
- (6) The Council shall, within 30 days from the date of the conclusion of all proceedings before it, do any or all of the following:
 - (a) make any finding that, in its opinion, ought to have been made by the Professional Conduct Committee;
 - (b) quash, vary or confirm the order or decision of the Professional Conduct Committee under this Part or substitute or make an order or decision of its own;
 - (c) refer the matter back to the Professional Conduct Committee for further consideration in accordance with any direction that the Council may make.
- (7) The Council may make an order respecting the payment of the costs of the hearing before it in accordance with the by-laws.
- (8) When the Council makes a decision, the chairman or vice-chairman shall immediately forward a copy of the decision to the Registrar.
- (9) The Registrar shall, on receiving a copy of the Council's decision under subsection (8), serve a copy of the decision on the investigated person.

Effectiveness
of decision

58 The decision of the Council remains in effect pending an appeal to the Court of Appeal unless the Court on application stays the decision pending the appeal.

Appeal to
Court of Appeal

59(1) An investigated person or the Registrar may appeal to the Court of Appeal a finding or order made by the Council under section 57.

- (2) An appeal under this section shall be commenced
 - (a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and
 - (b) by serving a copy of the notice of appeal
 - (i) on the Registrar of the Society, where the investigated person is the appellant, or

(ii) on the investigated person, where the Registrar of the Society is the appellant,

both within 30 days from the date on which the decision of the Council is served under section 57(9).

Appeal on
the record

60(1) An appeal under section 59 shall be founded on the record of the proceedings before the Council and the decision and order of the Council.

(2) The Registrar, on being paid any disbursements and expenses in connection with a request made by the appellant or his counsel or agent, shall furnish to the appellant or his counsel or agent the number of copies so requested of the documents mentioned in subsection (1).

(3) The procedure in an appeal shall be the same, with the necessary changes, as that provided in the Alberta Rules of Court for appeals from the judgment of a judge of the Court of Queen's Bench to the Court of Appeal.

Powers of Court

61(1) The Court of Appeal on hearing the appeal may do any or all of the following:

(a) make any finding that in its opinion ought to have been made;

(b) quash, confirm or vary the order or decision of the Council or any part of it;

(c) refer the matter back to the Council for further consideration in accordance with any direction of the Court;

(d) direct that a new trial of any mixed questions of law and fact relating to a finding, order or decision of the Council under section 57 be held before the Court of Queen's Bench.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that the Court considers appropriate.

Sanction by
Council

62 If a registered member or a student member has been convicted of an indictable offence, the Council may, without notice or an investigation under this Act,

(a) suspend the registration of the registered member or student member pending the determination of an appeal from the conviction or a proceeding to have the conviction quashed, or

(b) on the conclusion of an appeal from the conviction or a proceeding to quash the conviction, and whether or not a suspension has been ordered under clause (a),

(i) suspend the registration of the registered member or student member for a stated period of time, or

(ii) order the cancellation of the registration of the registered member or student member.

Falsely obtained
registration

63(1) If the Council is satisfied, after a hearing on the matter, that a person whose registration is entered in the register obtained registration by means of any false or fraudulent representation or declara-

tion, either oral or written, the Council shall order that his registration be cancelled.

(2) The provisions of this Part respecting the procedures at a hearing before the Professional Conduct Committee apply with all necessary modifications to a hearing held by the Council under subsection (1).

Cancellation and
reinstatement

64(1) A certificate of membership, annual certificate and permit remain the property of the Society and if the registration of an authorized entity has been cancelled or suspended under section 23 or 24 or this Part, the certificate of membership and the annual certificate, if any, or the permit of that authorized entity, as the case may be, is deemed to be cancelled or suspended, and that person shall surrender to the Registrar, when requested, the certificate of membership, annual certificate or permit, as the case may be.

(2) If the registration of an authorized entity has been cancelled under this Part, the registration shall not be reinstated in the register except by order of the Council or a court of competent jurisdiction.

(3) If the registration of an authorized entity has been suspended under this Part for a fixed period, the registration shall not be reinstated before the expiration of that period except by order of the Council or a court of competent jurisdiction.

(4) Where the registration of an authorized entity has been

(a) cancelled under this Part, or

(b) suspended under this Part for a fixed period of more than 1 year,

no order shall be made under subsection (2) or (3), as the case may be, within 1 year after

(c) the date on which the registration was cancelled or suspended, or

(d) if an order was granted under section 53 or 58 staying the imposition of a punishment imposed by the Professional Conduct Committee or the Council, as the case may be, and the punishment is later confirmed by the Council or the Court of Appeal, the date on which the Council or the Court made its order confirming the punishment.

(5) A member of the Council who is a member of a committee of inquiry appointed pursuant to the regulations to consider an application under this Part for reinstatement of registration may participate in or vote at any proceedings of the Council under this section, and the Society's counsel may participate in those proceedings.

Publication
of findings
and orders

65 Where a finding or order is made by the Professional Conduct Committee, the Council or the Court of Appeal under this Part, the Registrar may, in accordance with the by-laws, publish the name of the investigated person and the nature of the finding or order.

Misrepresenta-
tion of status

66 The conduct of a person who is or was registered as an authorized entity and who represents or holds out that he is registered and in good standing while his registration is suspended or cancelled may

be dealt with as being professional misconduct in accordance with this Part.

**PART 6
GENERAL**

Certificate of Registrar

67(1) A certificate purporting to be signed by the Registrar and stating that a named person was or was not, on a specified day or during a specified period, an authorized entity shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.

(2) A certificate purporting to be signed by the Registrar and stating that a named person was or was not, on a specified day or during a specified period

(a) an officer or employee of the Society, or

(b) a member of the Council or of any committee established under this Act, the regulations or the by-laws

shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.

Protection from legal action

68(1) No action lies against

(a) a member of the Investigation Committee, the Professional Conduct Committee, the Registration Committee, the Council or the Practice Review Board, the Registrar, the Society or any person acting on the instructions of any of them, or

(b) any member, officer or employee of the Society

for anything done by him in good faith and in purporting to act under

(c) this Act,

(d) the regulations, or

(e) a by-law that relates to or is incidental to a professional matter or a matter of public interest that is or may be the subject of a regulation under section 70.

(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of an authorized entity if the communication is published to or by

(a) the Society,

(b) a member of the Council, the Investigation Committee, the Professional Conduct Committee, the Registration Committee or the Practice Review Board,

(c) an officer or employee of the Society, or

(d) a person acting on the instructions of any person or entity referred to in clauses (a) to (c),

in good faith in the course of investigating the conduct, in the course of any proceeding under this Act relating to the conduct or in relation to any finding or order under Part 5 relating to the conduct.

Service of documents

69 When this Act, the regulations or the by-laws require that a document or notice be given to or served on any person, the document or notice is sufficiently given or served

(a) if it is served personally on that person or sent to him by registered mail at his address last shown in the appropriate register, or

(b) if personal service or service by mail is not reasonably possible, then by publishing the document at least twice, and not more than a week apart, in a local newspaper circulating at or near the address last shown for that person in the appropriate register.

Custodian

70(1) If

(a) the registration of a registered member or professional corporation is suspended or cancelled,

(b) a registered member dies,

(c) a registered member becomes mentally incapacitated,

(d) a registered member becomes ill or for some other reason is unable to engage in the practice of accounting,

(e) a registered member absconds or is otherwise improperly absent from his practice, or has neglected his practice for an extended period of time, or

(f) sufficient other grounds exist,

a judge of the Court of Queen's Bench may, on application by the Society, either ex parte or on such notice as the judge may require, by order appoint the Society, a person nominated by it or another person as custodian to have custody of the property of the registered member or professional corporation for the purpose of managing, winding up or selling the practice of the registered member or of the professional corporation of which the registered member is a shareholder.

(2) An order under subsection (1) may direct the sheriff of any judicial district in Alberta to seize and remove and place in the custody of the custodian all property of the person who is the subject of the order, and the order may authorize the sheriff to enter on any premises or open any safety deposit box or other receptacle if there are grounds for believing that property of the person who is the subject of the order may be found on it or in it.

(3) Unless otherwise directed, the order shall be promptly served on the person in respect of whom it is made.

(4) On the receipt by a person of notice that an order has been made pursuant to this section, he shall not dispose of any property of a registered member or professional corporation until directed by the custodian or by order of the Court as to the disposition of it.

(5) A judge of the Court of Queen's Bench may in an order under subsection (1) or at any time and from time to time by a subsequent order made ex parte or on notice required by the judge,

- (a) direct a bank or other depository of property of the person in respect of whom the order is made to deal with, hold, pay over or dispose of that property to the custodian, or some other person the judge considers proper,
 - (b) remove any custodian appointed by the order and appoint another custodian,
 - (c) give directions and advice to the custodian as to the disposition of the property in his hands or any part or parts of it, or
 - (d) give any directions or make any further orders that the situation requires.
- (6) The person in respect of whom an order under subsection (1) is made may apply to have the order modified or terminated at any time.
- (7) The fees, costs and expenses of the custodian shall be paid out of the property over which the custodian has authority subject to such order or direction as the Court may impose.

PART 7
REGULATIONS AND BY-LAWS

Regulations

71(1) The Council may make regulations

- (a) respecting the establishment and providing for the publishing of a code of ethics and rules of professional conduct respecting the practice of accounting, the maintenance of the dignity and honour of the profession of accounting and the protection of the public interest;
- (b) respecting the establishment or adoption of standards for the practice of accounting by authorized entities;
- (c) respecting the academic qualifications of and training requirements for applicants for registration as registered members;
- (d) providing for the evaluation by the Council, the Registration Committee, the Practice Review Board or any other committee or Board established or designated under the by-laws of the academic qualifications of and the training requirements for applicants for registration as registered members, and the examination of those applicants with respect to those qualifications or requirements;
- (e) prescribing restrictions, conditions and limitations on the practice of accounting by authorized entities or classes of them;
- (f) governing the names under which authorized entities may engage in the practice of accounting and the use by any authorized entity or class of authorized entity of any of the names or designations referred to in section 2;
- (g) respecting the procedures of the Investigation Committee, the Professional Conduct Committee and the Council in matters relating to the conduct or practice of authorized entities, whether or not a complaint has been made;

- (h) respecting the establishment by the Council of a compulsory continuing education program for registered members;
 - (i) governing the nature and content of advertising, if any, permitted by authorized entities or classes of them;
 - (j) respecting committees of inquiry for reinstatement under Part 5;
 - (k) respecting the manner of determining the amount and the payment of costs for the purposes of section 50(3).
- (2) A regulation under subsection (1) does not come into force unless it has been approved by
- (a) a majority of those registered members who
 - (i) attend and vote in person at a general meeting, or
 - (ii) vote in a mail vote conducted in accordance with the by-laws, and
 - (b) the Lieutenant Governor in Council.

By-laws

72(1) The Council may make by-laws

- (a) for the government of the Society and the management and conduct of its business and affairs;
 - (a.1) determining the location of the head office of the Society;
- (b) respecting affiliation of the Society with any other accounting body or organization;
 - (b.1) respecting the calling of and conduct of meetings of the Society and the Council;
- (c) respecting the nomination, election and removal and the number and term of office of Council members and officers of the Society, the filling of vacancies on the Council and in the offices of the Society and the appointment of individuals as ex officio members of the Council and of any committee or board established by the Council and prescribing their powers, duties and functions;
 - (c.1) governing, subject to this Act, the operation and proceedings of the Registration Committee, the Practice Review Board, the Investigation Committee and the Professional Conduct Committee, including the designation of chairmen and vice-chairmen, the nomination of members of the public for appointment by the Minister, the appointment, term of and removal of members, the procedures for filling vacancies and the appointment of ex officio members and prescribing the powers, duties and functions of members and ex officio members;
- (d) respecting reviews of the practice of an authorized entity by the Practice Review Board or a person authorized by the Practice Review Board;
 - (d.1) providing for the appointment of acting members of the Council and procedures for the election of registered members to

the Council and the nomination of members of the public for appointment by the Minister or for appointment or election by the registered members;

(e) establishing conditions respecting the registration of an applicant as a registered member including, without limitation, the fee payable and residence, age and character requirements;

(e.1) establishing conditions respecting the registration of student members and prescribing the rights, privileges, obligations and conditions of membership of student members;

(f) establishing classes or categories of membership in the Society in addition to registered members and student members, establishing conditions respecting registration in classes or categories of membership so established and prescribing the rights, privileges, obligations and conditions of membership of classes or categories of membership so established;

(g) requiring authorized entities to carry professional liability insurance and governing the minimum coverage required to be carried by authorized entities or any class of them;

(h) respecting the granting to and use by any person of a designation as a fellow of the Society;

(i) providing for the appointment of an individual as an Acting Registrar who has all of the powers and performs all of the duties of the Registrar under this Act, the regulations and the by-laws when the Registrar is absent or unable to act or when there is a vacancy in the office of Registrar;

(j) governing the establishment, operation and proceedings of chapters;

(k) governing the establishment, operation and proceedings of committees, the appointment of members of committees, the appointment of acting members and procedures for filling vacancies on committees and the delegation of any powers or duties of the Council under this Act, the regulations or the by-laws to a committee established by the Council or under this Act;

(l) prescribing the number of registered members that constitutes a quorum at meetings of the Society, the Council, the Professional Conduct Committee, the Practice Review Committee, the Investigation Committee and the Registration Committee;

(m) prescribing fees and expenses payable to members of the Council, the Practice Review Board, the Investigation Committee, the Professional Conduct Committee, the Registration Committee or any other board or committee of the Council or the Society or to a registered member representing the Society on a board or committee;

(n) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit programs that the Council considers appropriate;

(o) respecting the establishing and payment of fees, dues and levies to the Society by registered members, student members,

professional corporations and persons who are members of other classes or categories of membership in the Society;

(p) respecting the manner of determining the amount and the payment of costs for the purposes of sections 29(1)(d), 50(1) and 57(7);

(q) respecting the establishment, content and maintenance of registers, lists and records that the Registrar is required to keep;

(r) respecting the removal from the registers, lists and records of any memorandum or entry made in them under this Act, the regulations or the by-laws;

(s) governing the publication of notices of approval respecting applicants for registration as registered members;

(t) governing the publication of a notice of findings and orders made under Part 5;

(u) requiring authorized entities to maintain an address in Alberta and to inform the Registrar in writing of that address and of any change in that address forthwith after the change occurs;

(v) providing for the filing and contents of periodic returns by authorized entities;

(w) authorizing the Council to prescribe the form of a certificate of membership, a permit, an annual certificate and any other form or document that may be required for the purposes of this Act, the regulations or the by-laws;

(x) respecting certificates of membership, annual certificates and permits generally;

(y) governing the holding of mail votes;

(z) setting out the business that may be carried on and the powers that may be exercised by a professional corporation for the purpose of section 12(1)(d).

(2) A by-law under subsection (1) does not come into force unless it has been approved by a majority of those registered members who

(a) attend and vote in person at a general meeting, or

(b) vote in a mail vote conducted in accordance with the by-laws.

(3) The *Regulations Act* does not apply to by-laws of the Society.

PART 8

OFFENCES AND PENALTIES

Offences and penalties

73(1) Every person and every officer, employee or agent of a corporation or firm who contravenes this Act is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$2000,

(b) for a 2nd offence, to a fine of not more than \$4000, and

- (c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.
- (2) A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.
- (3) In a prosecution under this Act, it is sufficient to prove that the accused contravened the Act on a single occasion.

**PART 9
TRANSITIONAL AND CONSEQUENTIAL**

Deemed registration

74(1) *In this section and in sections 75, 76 and 77, “former Society” means The Society of Management Accountants of Alberta as incorporated under The Society of Management Accountants of Alberta Act.*

(2) An individual who is a registered member of the former Society is deemed to be a registered member under this Act.

(3) An individual who is registered as a student member of the former Society is deemed to be a student member under this Act.

(4) The Registrar shall register the names of those individuals referred to in subsections (2) and (3) in the appropriate register established pursuant to this Act.

Council continued

75 *The members of the Council of the former Society are deemed to be members of the Council under this Act, elected for the same period.*

Applications for membership

76 *An application for registration as a registered member or a student member made under the by-laws of the former Society but not concluded before the coming into force of this Act shall be dealt with as an application for registration under this Act.*

Discipline proceedings

77(1) *Any complaints or discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be concluded under the by-laws of the former Society as though this Act had not come into force.*

(2) A complaint made or discipline proceedings commenced after the coming into force of this Act when the complaint or proceedings relate to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.

Repeals SA 1944 c79

78 *The Society of Management Accountants of Alberta Act is repealed.*

Coming into force

79 *This Act comes into force on Proclamation.*